

monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from the Virgin Islands may file monthly claims for drawback under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF-379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001]

#### § 26.309 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer must allow the drawback of taxes at a rate of \$1 less than the lesser of \$10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

(b) *Information on claims.* The claim must set forth the following:

(1) That the special tax has been paid;

(2) That the eligible articles brought into the United States on which drawback is claimed are fully taxpaid or tax-determined;

(3) That the eligible articles on which drawback is claimed are nonbeverage products; and

(4) That the eligible articles were manufactured in the Virgin Islands in compliance with approved formulas in accordance with § 26.221.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

(1) The control number of the Special Tax Stamp and the tax year for which issued;

(2) A description of each eligible article as follows:

(i) Name and type of each product;

(ii) Name and address of the manufacturer of each product;

(iii) Formula number under which each product was manufactured;

(iv) Alcohol content of each product;

(v) Quantity of each product;

(vi) Proof gallons of distilled spirits contained in each product;

(vii) Date of entry of the eligible product into the United States; and

(viii) Evidence of taxpayment of distilled spirits in accordance with § 26.266.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996; T.D. ATF-451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

#### § 26.310 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from the Virgin Islands shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data:

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(1) The name, description, quantity, and formula number of each such article.

(2) The alcohol content of each such article.

(3) Name and address of the manufacturer and shipper, and date of entry into the United States.

(4) Evidence of taxpayment of distilled spirits in accordance with paragraph (e) of this section.

(c) *Form of record.* No particular form of record is prescribed, but the data required to be shown shall be readily ascertainable from the records kept by the drawback claimant.

(d) *Evidence of taxpayment of distilled spirits.* Evidence of taxpayment of eligible articles (such as Customs Forms 7501 and 7505 receipted to indicate payment of tax) shall be maintained as evidence of taxpayment to support information required to be furnished in the supporting data filed with a claim.

(e) *Retention of records.* Each drawback claimant shall retain for a period of not less than three years all records required by this subpart, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer of eligible articles shall be retained for not less than three years from the date he files his last claim for drawback under the formula. The records, forms, and formulas shall be readily available during regular business hours for examination by appropriate TTB officers.

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[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001]

### Subpart P—Requirements for Liquor Bottles

AUTHORITY: Sec. 5301, 72 Stat. 1374; 26 U.S.C. 5301.

SOURCE: T.D. 6954, 33 FR 6818, May 4, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

### § 26.311 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46864, Oct. 26, 1976. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

### § 26.312 Standards of fill.

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47 or § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of subpart E of part 5 or part 19 of this chapter, may be brought into the United States for packaging distilled spirits as provided in part 19 of this chapter.

[T.D. ATF-34, 41 FR 46864, Oct. 26, 1976, as amended by T.D. ATF-62, 44 FR 71718, Dec. 11, 1979]

### § 26.314 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit TTB Form 5100.31 for approval prior to bringing such bottles into the United States. For empty bottles, the bottler shall obtain approval on TTB Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle) to the front of each copy of TTB Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an